SENATE RECORD VOTE ANALYSIS

105th Congress — July 27, 1998, 6:09 p.m.
2nd Session — **Vote No. 237** — Page S-9032 Temp. Record

CREDIT UNION REFORM/Stronger Business Lending Cap

SUBJECT: **Credit Union Membership Access Act . . . H.R. 1151. D'Amato motion to table the Hagel amendment No. 3337.**

ACTION: MOTION TO TABLE AGREED TO, 53-42

SYNOPSIS: As reported with a substitute amendment, H.R. 1151, the Credit Union Membership Access Act, will amend the Federal Credit Union Act to preserve all existing multiple bond arrangements, to limit the growth of future multiple bond credit unions to groups of less than 3,000 members, to cap the percentage of total credit union assets that may be lent in business loans at any one time, and to subject credit unions to capital requirements and a system of prompt corrective action.

The Hagel amendment would increase the bill's restrictions on commercial lending by credit unions. First, it would lower the commercial lending cap for credit unions from the proposed 12.25 percent of a credit union's assets to 7 percent of a credit union's assets (no cap exists under current law). Credit unions would have 3 years to get under the cap. Second, the amendment would count commercial loans under $50,000 as well as loans over $50,000 under the cap (the bill will provide an exemption for loans under $50,000). Finally, the amendment would require credit unions to have loan officers with at least 2 years experience in commercial loans to administer such loans.

Debate was limited by unanimous consent. After debate, Senator D'Amato moved to table the Hagel amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

Our colleagues have accurately stated the reasons why commercial lending by most credit unions should be limited. However, they have inaccurately described the basis for the limits in this bill, and the degree of risk that is being taken in setting those limits. First the 12.25 percent cap was not set arbitrarily, as has been alleged. Instead, it was set by looking at the real-world effect it would have. At present, 85 institutions exceed the cap. They will have to dispose of approximately 5,400 loans with a total value of $250

(See other side)

YEAS (53)

Republicans (18 or 34%)	Democrats (35 or 83%)	
Abraham	Akaka	Johnson
Burns	Baucus	Kennedy
Campbell	Biden	Kerry
Chafee	Boxer	Kohl
Collins	Breaux	Landrieu
Coverdell	Bryan	Lautenberg
Craig	Bumpers	Levin
D'Amato	Cleland	Lieberman
Faircloth	Conrad	Mikulski
Gorton	Dodd	Moseley-Braun
Grassley	Dorgan	Moynihan
Hatch	Durbin	Murray
Kempthorne	Feingold	Reed
Murkowski	Feinstein	Reid
Roth	Ford	Sarbanes
Snowe	Glenn	Torricelli
Specter	Hollings	Wellstone
Stevens	Inouye	

NAYS (42)

Republicans (35 or 66%)		Democrats (7 or 17%)
Allard	Kyl	Byrd
Ashcroft	Lott	Daschle
Bennett	Lugar	Graham
Bond	Mack	Kerrey
Brownback	McCain	Leahy
Coats	McConnell	Robb
Cochran	Nickles	Rockefeller
DeWine	Roberts	
Enzi	Santorum	
Frist	Sessions	
Gramm	Shelby	
Grams	Smith, Bob	
Gregg	Smith, Gordon	
Hagel	Thomas	
Hutchinson	Thompson	
Hutchison	Thurmond	
Inhofe	Warner	
Jeffords		

NOT VOTING (5)

Republicans (2)	Democrats (3)
Domenici-2	Bingaman-2
Helms-3AN	Harkin-4AY
	Wyden-2

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

million over the next 3 years in order to get under the cap. Already, a cap of 12.25 percent will cause a great deal of disruption. If we were to drop to 7 percent, as advocated by our colleagues, 177 institutions would be above the cap and 8,700 loans, with a total value of $360 million, would be affected. We would not get much in return for causing that much more disruption for credit unions. There are approximately 11,000 credit unions in America, of which only 13 percent make any commercial loans. If every one of them made commercial loans, though, and if they made them at the 12.25 percent cap, the total commercial loan volume would still be only $40 billion. That amount would be just 3 percent of the total $1.1 trillion commercial loan volume in the United States. A 12.25 percent cap does not expose the United States taxpayers to a large liability, nor does it threaten to take a large percentage of the market share for commercial loans from other financial interests. It is a very reasonable cap that we strongly support. We also object to the proposal in the Hagel amendment to strike the $50,000 threshold. Such loans make up only a minor part of credit union business lending, and are often virtually indistinguishable from personal lending. For instance, suppose a plumber borrows money for a pickup truck--should that loan be counted as a personal or a commercial loan? In sum, the Hagel amendment would put too low a cap on credit union commercial lending and would unwisely restrict small loans. This amendment should be rejected.

Those opposing the motion to table contended:

The Hagel amendment is intended to prevent unfair competition and to make sure we do not end up with another savings and loan (S&L) fiasco. Credit unions have historically served to give personal loans to members, and they still serve that purpose almost exclusively. However, a small percentage of credit unions that were formed to give personal loans have begun to give commercial loans. We have several problems with this trend. First, credit unions were created to make "credit more available to people of small means." To achieve that goal, Congress exempted credit unions from paying income taxes. They thus have an economic advantage over other lenders when they give loans. That advantage serves a purpose when it is to make it possible for people to get personal loans they could not get otherwise, but it does not serve a purpose if the credit is used for commercial lending. In that case, all it does is give credit unions an unfair advantage over small banks, which typically give the type of small business loan that is provided by credit unions. The next problem is that credit unions are not experienced in this type of lending. They are therefore much more likely to make bad commercial loans than are banks. The third problem is that credit unions are not as well structured as banks to handle commercial losses. They cannot issue stock to replenish their capital reserves during hard times. Fourth, the very purpose of credit unions is to provide loans to people who cannot get service from traditional financial institutions. If this practice is extended into business loans, they will just be that much more risky. Fifth, we already know from experience what can happen when credit unions become very involved in commercial lending. In 1991, 13 credit unions in Rhode Island had to be shut down after they had huge losses from risky business lending. Sixth, and finally, the ultimate losers from risky lending will be the American taxpayers, who insure the deposits in credit unions.

Senators generally agree on the above points. The question is how best to limit credit union commercial lending. The bill before us will cap the total amount of member business loans that a credit union can make at 12.25 percent of its assets. Loans of less than $50,000 will not be counted in the total. We think that the cap is arbitrary and too high, and that the $50,000 limit is a loophole that will allow so many additional business loans to be given that it will make the cap meaningless. Therefore, we have proposed the Hagel amendment. The Hagel amendment would lower the cap to 7 percent in order to match the capitalization standard in this bill for a well-capitalized credit union. In other words, the amendment would require a credit union to have enough cash on hand to be able to pay off its commercial loans should they go bad. Next, the amendment would strike the exemption for loans under $50,000. Not only would that action stop credit unions from exceeding the cap by making large numbers of small commercial loans, it would also require honest accounting. In making their ledger entries, credit unions should not list small commercial loans in the personal loans column. Finally, the amendment would require credit unions to have loan officers with at least 2 years experience in commercial loans to handle those commercial loans that it gave under the cap. This requirement is very reasonable. In fact, the National Credit Union Administration (NCUA) already has this requirement; the Hagel amendment would only codify it.

The main argument against this amendment is that it would burden credit unions. However, only 13 percent of credit unions give any commercial loans. Within that 13 percent, the vast majority have less than 7 percent of their assets in commercial loans. Thus, cutting the cap from 12.25 percent to 7 percent would only affect a minority of a minority of credit unions. Further, those few credit unions would be given 3 years to come into compliance. The other objection that has been raised is that credit unions will have difficulty in determining which loans under $50,000 should be classified as commercial loans. In response, they did not have that difficulty in 1992 and 1993, when the NCUA required credit unions to report on their volume of commercial loans, both above and below a $25,000 threshold. The Hagel amendment is very reasonable. We urge our colleagues to support it.